

REMARKS

Claims 43-50 are pending in the present Application. Claims 43, 46 and 49 have been amended in an effort to expedite allowance of this application and simplify issues for the Examiner's consideration, leaving Claims 43-50 for further consideration upon entry of the present Amendment.

Antecedent basis for the amendment to Claims 43, 46 and 49 can at least be found in the specification in paragraph [100].

No new matter has been introduced by these amendments. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Claim Rejection Under 35 U.S.C. § 103(a)

Claims 43-50 stand rejected under 35 U.S.C. § 103(a) as being obvious over Hauber et al. (US 6,524,679) in view of Bush et al. (US2003/0134079 A1) and further in view of Schlachter (US 6,077,593).

These rejections are moot in light of Applicants' clarifying amendment. Applicants have amended independent Claims 43, 46 and 49 to include an additional limitation that a tensile strength of the bond is at least 16 pounds per square inch. In order to be fully responsive, Applicants also include the following remarks for the Examiner's consideration.

On page 4 of the O.A., the O.A. states that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to coat the glass facer sheets of Hauber et al. with a coating having a penetration of 25% up to 75% of the mat thickness motivated by the desire to create a gypsum board with improved tensile strength."

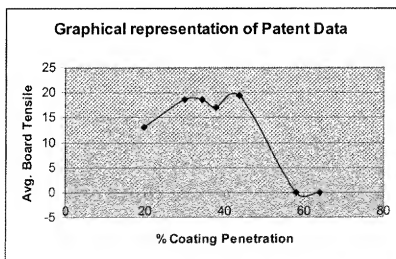
Assuming for the sake of argument that the O.A. has established a *prima facie* case of obviousness, Applicants can rebut a *prima facie* case of obviousness based on overlapping ranges by showing the criticality of the claimed range. "The law is replete with cases in which the differences between the claimed invention and the prior art is some range or other variable with the claims...In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range

achieves unexpected results relative to the prior art range." *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990) (See also MPEP 2144.05 III).

Applicants respectfully draw the Examiner's attention to Example 3 in the specification, (paragraphs [099]-[104]). Applicants tested tensile strengths at various coating penetrations. It was unexpectedly discovered that within Applicants narrowly claimed range of coating penetration that the desired claim tensile strength of at least 16 pounds per square inch is obtained. The data from Example 3 is reproduced below. Also illustrated below is this data from the instant application in graphical format to better illustrate the unexpected results.

Sample No.	Coating Penetration (mils)	Percent Coating Penetration	Avg. Board Tensile (psi)
1	15	43.6	19.5
2	11.6	37.7	17.1
3	12.9	34.4	18.6
4	11.8	29.9	18.6
5	6.9	19.7	13
6	14.1	64	0*
7	13.9	58	0*

* Reject board severe blistering after exiting the dryer.



What is particularly noteworthy is at coating penetrations of 58% and 64% blistering occurred in the dryer, which resulted in the board being rejected. Stated another way, Applicants have demonstrated a criticality of their claimed range, since boards failed within a broader range. Since Applicants have shown their claimed range to be critical to obtaining the desired tensile of at least 16 pounds per square inch, a *prima facie* case of obvious has been rebutted. As such, Applicants respectfully submit that amended independent Claims 43, 46 and 49 are allowable and dependent Claims 44, 45, 47, 48 and 50 are allowable for at least the reason that they depend from an allowable independent claim.

In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicants' attorney hereby authorizes that such fees be charged to Deposit Account No. 50-3313.

Respectfully submitted,

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